

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

CHRISTOPHER A. TYTANIC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-16-1107-D
	)	
BLUE SKY BIO, LLC, <i>et al.</i> ,	)	
	)	
Defendants.	)	

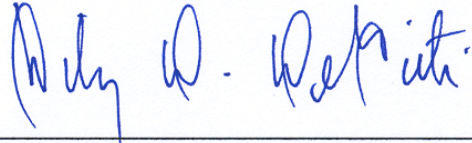
**ORDER**

Before the Court is Defendants Albert Zickmann and Sheldon A. Lerner's Motion to Dismiss [Doc. No. 23], filed pursuant to Fed. R. Civ. P. 12(b)(6). The First Amended Complaint asserts tort claims based on allegedly defective dental implants, and purports to sue each of the moving defendants because he "is a Co-Founder/Owner/Officer/Member of Blue Sky Bio and holds the dental implant patents relating to this claim." *See* First Am. Compl. [Doc. No. 17], ¶¶ 3-4. By their Motion, the individual defendants contend Plaintiff fails to state any claim against them as a matter of law.

Plaintiff has filed no timely response to the Motion. Thus, the Court in the exercise of discretion under LCvR7.1(g) deems the Motion confessed. Further, for the reasons stated in the Motion, the Court finds that the First Amended Complaint fails to state a claim upon which relief can be granted against Defendant Albert Zickmann or Defendant Sheldon A. Lerner.

IT IS THEREFORE ORDERED that Defendants Albert Zickmann and Sheldon A. Lerner's Motion to Dismiss [Doc. No. 23] is GRANTED. This action shall proceed only against Defendant Blue Sky Bio, LLC.

IT IS SO ORDERED this 29<sup>th</sup> day of November, 2016.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE